

## INTRODUCTION

### Forty Years of Human Rights Policy

**T**HE DEBATE OVER HUMAN RIGHTS AND AMERICAN FOREIGN policy reflects the American rise to world power.

President Reagan used to call America a “shining city on a hill,” taking the phrase – initially from the Sermon on the Mount – that had been used in 1630 by John Winthrop, the Puritan governor of Massachusetts Bay Colony. The new colony – and later the new nation – was to be a model watched by the entire world. Its power would be that of example.

This is one approach to American influence, and the only approach possible for a struggling young colony in the seventeenth and eighteenth centuries and then for the new republic. But as American power grew in the nineteenth and especially the twentieth centuries, so did American ambitions – and American responsibilities. There are some examples from the post–Civil War period of direct efforts to change the behavior of foreign governments toward their citizens, but it was World War I and its aftermath that provided the opportunity, temptation, and justification to interfere in the internal arrangements of foreign lands. Wilson’s Fourteen Points were both an assertion of war aims and an explanation to the American people of why we were entering the war in Europe. The answer was that we would make the world a better place, and thereby increase our own prosperity and security. Wilson told Congress in January 1918:

What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and

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selfish aggression. All the peoples of the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us. The programme of the world's peace, therefore, is our programme.<sup>1</sup>

But Wilsonian idealism did not guide American policy for most of the twentieth century. The bloody costs of World War I itself, the defeat of the League of Nations treaty in the Senate, the rise of fascism in Europe and Japan, World War II, and then the Cold War with the Soviet Union led foreign policy in different directions: to the desire for isolation from the world's seemingly intractable problems or to pragmatic "power politics" approaches where we took our friends and allies as we found them. We dealt only with sovereign governments, and how they treated their own people was for the most part not our business. We didn't have to like it, but the world was a dangerous place. Wilson had said, "Unless justice be done to others it will not be done to us," but we could protect ourselves. The more common attitude was summed up in the remark Franklin Roosevelt is alleged to have made in 1939 about the Nicaraguan dictator Anastasio Somoza: "Somoza may be a son of a bitch, but he's our son of a bitch."

But there were at least two major problems with this approach, and they became increasingly visible during the Cold War. First, it was not very practical: if we sided with dictators who engaged in vast repression, we might turn the population against us – thereby benefiting the other side, namely the Soviet-backed leftist or Communist groups. This was the insight that led President Kennedy into the "Alliance for Progress," an economic aid program for Latin America seeking "a hemisphere where all men can hope for a suitable standard of living," but also including the expansion of freedom as an objective. As Kennedy put it in March 1961 when introducing his program, "To achieve this goal political freedom must accompany material progress."<sup>2</sup> A year later Kennedy spelled out the political or Cold War rationale for the Alliance for Progress in one sentence: "Those who make peaceful revolution impossible will make violent revolution inevitable."<sup>3</sup>

So pragmatism and the rivalry with the Soviets required attention to the internal political situation of other lands, lest the repression and

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injustice lead to support for the Communists. But there was a second problem with an approach that suggested indifference to political freedom around the world, and that was ideological. The United States presented the Cold War not as a typical struggle between empires, of the sort the world had seen for millennia. Instead, we viewed it as, and argued that it was, a struggle between good and evil – between freedom and slavery, between individual rights and one-party dictatorships, between a nation “under God” and “godless Communism.” The theologian Reinhold Niebuhr (who might be termed, at the risk of oversimplification, a “Cold War liberal” or “liberal anti-Communist”) put it this way: “we are embattled with a foe who embodies all the evils of a demonic religion.” Communism was “an organized evil which spreads terror and cruelty throughout the world.”<sup>4</sup>

Fair enough, but how could we explain the evils of Communism and Soviet power if we were supporting evil regimes ourselves – and seemed indifferent to their crimes? How could we protest the lack of freedom of speech or press or assembly, or of free elections, in the Soviet empire if in our own areas of influence we tolerated the same repression?

And here, in a sense, is where I came into this American debate on human rights policy and the role of promoting democracy. I was a “Cold War liberal” in college and law school (I entered Harvard College in 1965, and graduated from Harvard Law School in 1973), which put me in sympathy with what had long been the prevailing winds in the Democratic Party. But the times they were a-changing, as Bob Dylan sang it in 1964.

I teach now at Georgetown University’s School of Foreign Service, to students who were on average born between 1995 and 2000. The Cold War is a historical phenomenon to them, more or less like the War of 1812, and the Soviet Empire seems an ancient concept, another historical fact to be studied, just like the Spanish Empire. Because they know the outcome – the Soviet collapse in 1991 – it is hard to convey to them the struggle as many Americans saw it in the 1970s.

The United States seemed to be losing that struggle. The “nonaligned movement” and the “third world” countries seemed to be in closer alignment with the Soviet Union than with us. In the United Nations, we were constantly defeated. There were various ways the political and civil

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liberties cherished by the United States were deprecated, beyond simply lying about the condition of freedom in the Soviet Empire and in very many third world nations. Most common was the assertion that all nations were after all imperfect, and everything was relative: the United States emphasized freedom of the press, for example, but other nations stressed social and economic “freedoms” like the right to housing or to medical care. The fact that this was a lie (because in those countries the material conditions were usually awful) did not seem to undermine the ideological argument.

Why did the third world nations, which had attained independence with brave assertions that they would now build more just societies, orient themselves toward the USSR and not the United States?

Daniel P. Moynihan (who was then a Harvard professor and whom I later served as chief of staff when he was a U.S. senator from New York) explained the phenomenon in a brilliant article in *Commentary* magazine in March 1975 titled “The United States in Opposition.” There were two reasons:

First, the developing countries and the Communist countries had an easy common interest in portraying their own progress, justifying the effective suppression of dissent, and in the process deprecating and indicting the seeming progress of Western societies . . . . The developing nations could ally with the totalitarians in depicting social reality in this way, in part because so many, having edged toward authoritarian regimes, faced the same problems the Communists would have encountered with a liberal analysis of civil liberties. Secondly, the developing nations had an interest in deprecating the economic achievements of capitalism, since almost none of their own managed economies was doing well.<sup>5</sup>

American defeats in the United Nations and of the rise of a third world ideology that deprecated freedom – and the United States – and was aligned with the Soviets were also in part reflections of the Soviet gains and American defeats on the ground. In Vietnam as the 1970s began, the United States was proving unable to achieve its goals despite sending more and more troops. Conversely the grim certainty of Soviet power was affirmed in 1968 when 200,000 Soviet and other Warsaw Pact troops put down the “Prague Spring” and the effort at liberalization in

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Czechoslovakia. The global, including American, reaction to that invasion was weak to nonexistent, and the Russians had proved they would use their power to protect their interests. In Africa, 15,000 Cuban combat troops were sent to Ethiopia to advance Soviet goals there; 25,000 Cuban troops were dispatched to Angola in 1975 to ensure that on its independence the Marxist UNITA party would take power and keep it. The sense that Soviet power was rising and American power diminishing peaked in the dismal year of 1979, when the Soviet Union invaded Afghanistan, the Marxist Sandinista movement took power in Nicaragua and the Marxist FMLN group appeared on its way to power in El Salvador (both with Cuban help), the New Jewel movement seized power in Grenada and immediately established close relations with Cuba, and the shah of Iran, an important American ally, fell.

Meanwhile, many American scholars spoke and wrote about the achievements of the Soviets, their allies, and their system. In the leading economics textbook of the day, Paul Samuelson wrote that it was “a vulgar mistake to think that most people in Eastern Europe are miserable” – this, just a few years after that 1968 revolution in Czechoslovakia had been crushed – and predicted that Soviet GNP would surpass that of the United States around 2010. Not only were the Soviets gaining militarily, but the future seemed to be theirs economically as well.

Throughout the 1970s, the reaction of presidents from both the Republican and Democratic Parties was to accommodate to these new conditions – not to fight them. And strikingly, the ways in which presidents from each party did so were precursors to the debates over American human rights policy in the 1980s and since – including in the Obama years and during the “Arab Spring.”

As a college student in 1968 and as a Democrat comfortably at home with the Cold War tradition of Truman, Kennedy, and Johnson, I supported Hubert Humphrey for the party’s presidential nomination. Indeed I attended the raucous 1968 Democratic Convention in Chicago, where I did some minor staff work for the civil rights leader Bayard Rustin – who was working to nominate Humphrey.

But the Democratic Party split after 1968, primarily over Vietnam, and began to move steadily to the left. Its 1972 nominee, George McGovern, was not simply opposed to the Vietnam War. He had a broader critique

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of U.S. foreign policy and indeed of American society. He wanted less American involvement overseas and said in his acceptance speech that it was “time to turn away from excessive preoccupation overseas to the rebuilding of our own nation” because “the greatest contribution America can now make to our fellow mortals is to heal our own great but very deeply troubled land.” His argument that “this is the time for this land to become again a witness to the world for what is just and noble in human affairs” suggested passivity: a witness is not an actor. At best we were to be the “city on a hill,” providing a model but eschewing intervention in the affairs of others. American power and intervention were likely to make the world a worse and not a better place. In this speech he repeated the phrase, “Come home, America,” six times.<sup>6</sup>

In 1972, as a law student, I supported Sen. Henry M. “Scoop” Jackson of Washington State for the Democratic nomination and campaigned for him for a couple of weeks in the Massachusetts and Florida primaries. Indeed I was on the Democratic ballot as a delegate pledged to Jackson in the Massachusetts primary that year (which Jackson did not win).

Jackson was fast becoming the leader of a wing of the Democratic Party whose views of American power and American foreign policy were very different from those of George McGovern and what had become the mainstream of the Democratic Party and that is what attracted me – and many others who were fairly called Cold War liberals. Moynihan was one of those, and his prescription in that *Commentary* article was not “come home, America,” nor was he apologetic about the country. What Moynihan recommended was that we fight: “the United States goes into opposition.” That meant that we would attack our critics, and start defending ourselves and our ideas, on both factual and ideological grounds. Moynihan wrote, “In Washington, three decades of habit and incentive have created patterns of appeasement so profound as to seem wholly normal.” This must end. “It is past time we ceased to apologize for an imperfect democracy. Find its equal.”

This was a fight I wanted to join. In 1975 I left the practice of law after only eighteen months and moved to Washington to work on Scoop Jackson’s Senate staff. Jackson was a Cold Warrior who wished to push back against Soviet gains and harness all elements of American power to do so. He had no doubt about the virtues of American democracy and the evils

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of Soviet power and of Communism as an ideology. But Jackson believed the purpose of American policy was not simply achieving national security in the narrow sense, nor was it the victory of American over Soviet power: instead, it was the triumph of freedom over its enemies. Jackson's parents were immigrants from Norway, and that nation's experiences with Nazi occupation during World War II influenced his views enormously. So did his visit to Buchenwald in 1945 as a young congressman, which not only confirmed his view that tyranny must be fought but also deepened his sympathy for Jewish causes, including the State of Israel.

Jackson was a liberal Democrat on domestic issues, but this in a way deepened his support for freedom globally – and his commitment to the need to defend it. In 1948 – long before George McGovern was saying “come home, America,” he said,

You cannot talk about a better United States if the country can be destroyed. Look at what happened to Norway. Norway had a thousand years of political freedom. The Norwegians had clean air, clean water, clean land, a great environment. They had one of the highest standards of living in the world. They had one of the first national health programs, dating back to the turn of the century. What good did it do them when the hobnail boot took over in the spring of 1940?<sup>7</sup>

In the 1970s Jackson's views of human rights, of Jews, and of the Soviets came together in what became known as the “Jackson Amendment.” During that decade, a human rights movement led and personified by Andrei Sakharov and a related but separate movement for the right of Soviet Jews to practice their faith, learn Hebrew, and emigrate from Russia, personified by Anatoly Sharansky, grew into major factors in international politics and U.S.–Soviet relations. The Soviet Jewry struggle was an almost perfect case study of the differences between the *realpolitik* approach and the more ambitious or more humanistic view, and Jackson's staunch leadership was precisely why I supported him and came to Washington to work for him.

As the 1970s began, the Soviet Jewry movement and the advancement of détente proceeded simultaneously. Negotiations with the Soviets over strategic arms limitations and economic relations moved forward in 1971,

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and Nixon visited the Soviet leader Leonid Brezhnev in May 1972 – the first US president ever to visit Moscow. There they signed seven agreements on various economic and military issues, and that summer Congress approved a three-year agreement on grain sales and the SALT I (strategic arms limitation) treaty. That agreement in essence froze the number of ICBMs where they stood, while the ABM or antiballistic missile treaty signed at the same time limited both nations to only two ABM systems. “Peaceful coexistence” was the catchphrase for the relationship. In October 1972 an important trade agreement with Russia was signed that promised MFN or most-favored-nation treatment and trade credits, and in April 1973 Nixon sent up to Congress the Trade Reform Act including that provision. Brezhnev returned Nixon’s visit in June 1973, and a few more agreements were signed. Brezhnev and Nixon scheduled a meeting for June 1974, and talks continued on another SALT agreement and additional commercial deals.

Meanwhile the Helsinki Conference was held in July and August 1975 to complete negotiations that had been underway for two years and approve the “Final Act” of the Conference on Security and Cooperation in Europe. This was one of the high points of détente, and the goal of the Helsinki Accords was to improve East-West relations and lower tensions. The agreement was widely viewed as a victory for the USSR, because its provisions on respect for existing borders and the equality of all states suggested that the United States was finally, formally, and permanently accepting Soviet control of Eastern and Central Europe and the status of the satellite countries there. It seemed obvious that lines such as “the participating States will respect the equal rights of peoples and their right to self-determination” were meant by the Soviet leadership to be dead letters.

The Final Act contained a human rights section, which became known as Basket Three. It mentioned “the freer and wider dissemination of information of all kinds” and “human interaction” – the ability to travel for family visits or to reunite families, for example. Such things were promised in the UN Charter and in the Soviet constitution, so few expected that much would come of Basket Three in reality; certainly President Ford and Secretary of State Henry Kissinger had no intention of



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allowing it to get in the way of détente with the Soviets. The kind of ideological warfare recommended by Moynihan had little appeal for them.

But the Soviet human rights movement and the Soviet Jewry movement, both of them small and weak in the 1960s, grew powerful enough to clash with and in many ways defeat the Nixon/Kissinger détente policy and the *realpolitik* approach on which it was based. In 1970 Andrei Sakharov, father of the Soviet hydrogen bomb and one of the USSR's most distinguished citizens, co-founded the Committee on Human Rights in the Soviet Union. In that same year Aleksandr Solzhenitsyn received the Nobel Prize for Literature. It was becoming increasingly clear that there was resistance to the Soviet state and to the tightening of controls on society after the Khrushchev era.

Simultaneously the Soviet Jewry movement began to grow, initially to oppose Soviet anti-Semitism. Activism by Soviet Jews was spurred by Israel's victory in the 1967 war and a deepening pride and identification as Jews – as well as a demand by thousands of Jews for the right to study Hebrew and to emigrate to Israel. In 1970 the Soviet regime put on trial for treason sixteen Jewish activists who had tried to seize a plane and land it abroad, and the trial received a great deal of international attention. In 1972 the Soviet government reacted to the demand for the right to emigrate by imposing an “emigration tax” or “diploma tax,” demanding that those with a higher education “repay” the state for its cost. The tax was equal to about ten years' salary and made emigration nearly impossible for those with higher education. This provoked widespread condemnation in the United States – including open letters from 21 Nobel laureates and 6,000 American scientists condemning the tax. The government of Israel, which until 1972 had not given much public support to the Soviet Jewry movement, began to speak out in its support. In the United States, there was not only massive support from the Jewish population but, increasingly over the years, also from the leadership of the major Jewish organizations. The courage of Soviet Jewish activists, now known as “refuseniks” – who faced not only anti-Semitism and the loss of jobs but also prosecution and long prison terms – elicited deep admiration throughout the American Jewish community.

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Jackson, Moynihan, and other Cold War liberals – who soon were described with the epithet “neoconservatives” – urged that the United States should give at least powerful moral support to both the Soviet human rights movement and the Soviet Jewry movement. And in 1972 Jackson began to devise a plan that would place all these human rights concerns directly in the path of détente.

The Jackson Amendment was deceptively simple. Part of the Trade Act of 1974, in its final form it said that permanent normal trade relations with a nonmarket economy country, including most-favored-nation (MFN) tariff status and U.S. government trade credits or guarantees, would be denied if the country denied freedom of emigration to its citizens. Specifically, the Jackson Amendment said normal trade relations would be denied if the country “(1) denies its citizens the right or opportunity to emigrate; (2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or (3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.” The Soviet Union recognized no right to travel or to emigrate and had imposed a steep emigration tax.

This was “linkage” – the idea that the United States would not only speak up for internal changes and human rights improvements in another country but would also tie other aspects of American foreign policy and bilateral relations to them. And here, linkage was being applied not to a poor or weak American aid recipient or to some American client state in the third world, but to the Soviet Union – a superpower. Sharan-sky has explained how critical was Jackson’s role:

Well I’ve asked, “Who are the people responsible for the demise of the Soviet Union?” And of course I believe that our movement played a very important role. But if you are speaking about specific names, I will speak about Andrei Sakharov, about Senator Jackson, and about President Reagan. The contribution of Senator Jackson was in the fact that he was the first who made the direct linkage between freedom of emigration and very important economic interest of the Soviet Union. And he did so against all the political thought in the United States of America and in the free world.